



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, D.C. 20460**

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

November 3, 2021

**In Reply Refer to:**

EPA Complaint No. 03R-21-R3

(b)(6) Privacy, (b)(7)(C) Enf. Privacy

Richmond, VA 23220

(b)(6) Privacy, (b)(7)(C) Enf. Privacy

Dear (b)(6) Privacy, (b)(7)(C) Enf. Privacy

This letter is to notify you that your correspondence dated July 14, 2021 to the U.S. Department of Justice was referred to the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) for appropriate action. ECRCO received your correspondence on October 22, 2021. Your correspondence involves the Virginia Department of Environmental Quality (VA DEQ) and Hanover County, Virginia, and alleges discrimination based on race in violation of Title VI of the Civil Rights Act of 1964, with respect to the proposed Wegmans Distribution Center.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

On July 23, 2021, ECRCO acknowledged a similar complaint filed against the VA DEQ and Hanover County, Virginia, and completed a jurisdictional review to determine whether to accept the complaint for investigation, or reject, or refer the complaint to another Federal agency. On

August 25, 2021, ECRCO rejected the complaint filed against Hanover County, Virginia due to it not being a recipient of EPA financial assistance. Also, on that date, ECRCO determined that the complaint filed against the VA DEQ met the jurisdictional requirements stated above and accepted the complaint for investigation of the following issues:

1. Whether DEQ discriminated on the basis of race in violation of Title VI of the Civil Rights Act, and EPA's implementing regulation at 40 C.F.R. Part 7, by issuing Virginia Water Protection (VWP) Individual Permit No. 19-2036 for the proposed Wegmans Distribution Center's 219.6-acre site that is located south of Ashcake Road (Route 657), northwest of Sliding Hill Road (Route 656), and east of Egypt Road (Route 741);<sup>1</sup> and
2. Whether DEQ has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that all recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to the DEQ's services, programs, and activities, for individuals with limited English proficiency (LEP) and individuals with disabilities, and whether the DEQ has a public participation policy and process that is consistent with Title VI and the other federal civil rights laws, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.<sup>2</sup>

On October 1, 2021, the VA DEQ agreed to informally resolve the issues accepted for investigation and ECRCO suspended its formal investigation. ECRCO is currently engaged in the Informal Resolution Agreement process with VADEQ. (Please see ECRCO's Case Resolution Manual for a more detailed explanation of ECRCO's complaint resolution process, available at [https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5\\_final\\_case\\_resolution\\_manual\\_.pdf](https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf).)

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<sup>1</sup> Virginia Water Protection Individual Permit No. 19-2036, Project Name: Wegmans Distribution Center, Hanover County, Virginia Fact Sheet, March 1, 2021.

<sup>2</sup> See Title VI, 42 U.S.C. 2000(d) *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974) (finding that the government properly required language services to be provided under a recipient's Title VI obligations not to discriminate based on national origin); 40 C.F.R. § 7.35(a). See also U.S. EPA, Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 FR 35602 (June 25, 2004) (available at [https://www.epa.gov/sites/production/files/2020-02/documents/title\\_vi\\_lep\\_guidance\\_for\\_epa\\_recipients\\_2004.06.25.pdf](https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_lep_guidance_for_epa_recipients_2004.06.25.pdf)); U.S. EPA, Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 FR 14207 (March 21, 2006) (available at [https://www.epa.gov/sites/production/files/2020-02/documents/title\\_vi\\_public\\_involvement\\_guidance\\_for\\_epa\\_recipients\\_2006.03.21.pdf](https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf)); U.S. EPA, Procedural Safeguards Checklist for Recipients, at [https://www.epa.gov/sites/production/files/2020-02/documents/procedural\\_safeguards\\_checklist\\_for\\_recipients\\_2020.01.pdf](https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf) (rev. Jan. 2020) (which provides a more detailed explanation of nondiscrimination obligations and best practices); U.S. EPA, Disability Nondiscrimination Plan Sample, at [https://www.epa.gov/sites/production/files/2020-02/documents/disability\\_nondiscrimination\\_plan\\_sample\\_for\\_recipients\\_2020.01.pdf](https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf). (2017).

Based on a review of your correspondence, you appear to be raising the same issues as those we have accepted for investigation and resolution (see above). As such, we would like to include your correspondence and the information you have provided as part of that existing case and would like to set up a time to speak with you to explain this informal resolution process and also to go over the information you have provided, as we work to develop an Informal Resolution Agreement that addresses and resolves the issue identified above. At that time, you may raise any other issues you feel may be relevant to this case.

We look forward to speaking with you in the near future. If you have questions about this letter, please feel free to contact Jeryl Covington, Case Manager by email at [covington.jeryl@epa.gov](mailto:covington.jeryl@epa.gov), or at (202) 564-7713 or Jack Pantziris, Case Manager by email at [pantziris.jack@epa.gov](mailto:pantziris.jack@epa.gov), or at (202) 564-2466.

Sincerely,



Lilian S. Dorka, Director  
External Civil Rights Compliance Office  
Office of General Counsel

cc: Ariadne Goerke  
Deputy Associate General Counsel  
Civil Rights & Finance Law Office

Diana Esher  
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